

AMENDED IN ASSEMBLY SEPTEMBER 1, 2015

AMENDED IN ASSEMBLY JUNE 29, 2015

AMENDED IN SENATE APRIL 6, 2015

SENATE BILL

No. 557

Introduced by Senator Hall

February 26, 2015

An act to amend Section 25503.6 of the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

SB 557, as amended, Hall. Alcoholic beverages: tied-house restrictions: advertising.

Existing law authorizes the holder of a winegrower's license, a beer manufacturer, a distilled spirits manufacturer, or a distilled spirits manufacturer's agent, to purchase advertising space and time from, or on behalf of, an on-sale retail licensee, under certain conditions, if the on-sale retail licensee is the owner, manager, agent of the owner, assignee of the owner's advertising rights, or major tenant of specified facilities.

This bill would expand the exceptions to existing law to allow beer manufacturers, winegrowers, distilled spirits rectifiers, distilled spirits manufacturers, or distilled spirits manufacturer's agents to purchase advertising space and time from, or on behalf of, on-sale retail licensees at a fairgrounds with a horse racetrack and equestrian and sports facilities located in the County of San Diego.

By creating new crimes this bill would impose a state-mandated local program.

This bill would make legislative findings and declarations as to the necessity of a special statute for the County of San Diego.

This bill would incorporate changes to Section 25503.6 of the Business and Professions Code proposed by both this bill and Senate Bill 462, which would become operative only if both bills are enacted and become effective on or before January 1, 2016, and this bill is chaptered last.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 25503.6 of the Business and Professions
- 2 Code is amended to read:
- 3 25503.6. (a) Notwithstanding any other provision of this
- 4 chapter, a beer manufacturer, the holder of a winegrower's license,
- 5 a distilled spirits rectifier, a distilled spirits manufacturer, or
- 6 distilled spirits manufacturer's agent may purchase advertising
- 7 space and time from, or on behalf of, an on-sale retail licensee
- 8 subject to all of the following conditions:
- 9 (1) The on-sale licensee is the owner, manager, agent of the
- 10 owner, assignee of the owner's advertising rights, or the major
- 11 tenant of the owner of any of the following:
- 12 (A) An outdoor stadium or a fully enclosed arena with a fixed
- 13 seating capacity in excess of 10,000 seats located in Sacramento
- 14 County or Alameda County.
- 15 (B) A fully enclosed arena with a fixed seating capacity in
- 16 excess of 18,000 seats located in Orange County or Los Angeles
- 17 County.
- 18 (C) An outdoor stadium or fully enclosed arena with a fixed
- 19 seating capacity in excess of 8,500 seats located in Kern County.
- 20 (D) An exposition park of not less than 50 acres that includes
- 21 an outdoor stadium with a fixed seating capacity in excess of 8,000
- 22 seats and a fully enclosed arena with an attendance capacity in
- 23 excess of 4,500 people, located in San Bernardino County.

1 (E) An outdoor stadium with a fixed seating capacity in excess
2 of 10,000 seats located in Yolo County.

3 (F) An outdoor stadium and a fully enclosed arena with fixed
4 seating capacities in excess of 10,000 seats located in Fresno
5 County.

6 (G) An athletic and entertainment complex of not less than 50
7 acres that includes within its boundaries an outdoor stadium with
8 a fixed seating capacity of at least 8,000 seats and a second outdoor
9 stadium with a fixed seating capacity of at least 3,500 seats located
10 in Riverside County.

11 (H) An outdoor stadium with a fixed seating capacity in excess
12 of 1,500 seats located in Tulare County.

13 (I) A motorsports entertainment complex of not less than 50
14 acres that includes within its boundaries an outdoor speedway with
15 a fixed seating capacity of at least 50,000 seats, located in San
16 Bernardino County.

17 (J) An exposition park, owned or operated by a bona fide
18 nonprofit organization, of not less than 400 acres with facilities
19 including a grandstand with a seating capacity of at least 8,000
20 people, at least one exhibition hall greater than 100,000 square
21 feet, and at least four exhibition halls, each greater than 30,000
22 square feet, located in the City of Pomona or the City of La Verne
23 in Los Angeles County.

24 (K) An outdoor soccer stadium with a fixed seating capacity of
25 at least 25,000 seats, an outdoor tennis stadium with a fixed
26 capacity of at least 7,000 seats, an outdoor track and field facility
27 with a fixed seating capacity of at least 7,000 seats, and an indoor
28 velodrome with a fixed seating capacity of at least 2,000 seats, all
29 located within a sports and athletic complex built before January
30 1, 2005, in the City of Carson in Los Angeles County.

31 (L) An outdoor professional sports facility with a fixed seating
32 capacity of at least 4,200 seats located in San Joaquin County.

33 (M) A fully enclosed arena with a fixed seating capacity in
34 excess of 13,000 seats in the City of Inglewood.

35 (N) (i) An outdoor stadium with a fixed seating capacity of at
36 least 68,000 seats located in the City of Santa Clara.

37 (ii) A beer manufacturer, the holder of a winegrower's license,
38 a distilled spirits rectifier, a distilled spirits manufacturer, or
39 distilled spirits manufacturer's agent may purchase advertising
40 space and time from, or on behalf of, a major tenant of an outdoor

1 stadium described in clause (i), provided the major tenant does not
2 hold a retail license, and the advertising may include the placement
3 of advertising in an on-sale licensed premises operated at the
4 outdoor stadium.

5 (O) A fairgrounds with a horse racetrack and equestrian and
6 sports facilities located in San Diego County.

7 (2) The outdoor stadium or fully enclosed arena described in
8 paragraph (1) is not owned by a community college district.

9 (3) The advertising space or time is purchased only in connection
10 with the events to be held on the premises of the exposition park,
11 stadium, or arena owned by the on-sale licensee. With respect to
12 an exposition park as described in subparagraph (J) of paragraph
13 (1) that includes at least one hotel, the advertising space or time
14 shall not be displayed on or in any hotel located in the exposition
15 park, or purchased in connection with the operation of any hotel
16 located in the exposition park.

17 (4) The on-sale licensee serves other brands of beer distributed
18 by a competing beer wholesaler in addition to the brand
19 manufactured or marketed by the beer manufacturer, other brands
20 of wine distributed by a competing wine wholesaler in addition to
21 the brand produced by the winegrower, and other brands of distilled
22 spirits distributed by a competing distilled spirits wholesaler in
23 addition to the brand manufactured or marketed by the distilled
24 spirits rectifier, the distilled spirits manufacturer or the distilled
25 spirits manufacturer's agent that purchased the advertising space
26 or time.

27 (b) Any purchase of advertising space or time pursuant to
28 subdivision (a) shall be conducted pursuant to a written contract
29 entered into by the beer manufacturer, the holder of the
30 winegrower's license, the distilled spirits rectifier, the distilled
31 spirits manufacturer, or the distilled spirits manufacturer's agent
32 and the on-sale licensee, or with respect to clause (ii) of
33 subparagraph (N) of paragraph (1) of subdivision (a), the major
34 tenant of the outdoor stadium.

35 (c) Any beer manufacturer or holder of a winegrower's license,
36 any distilled spirits rectifier, any distilled spirits manufacturer, or
37 any distilled spirits manufacturer's agent who, through coercion
38 or other illegal means, induces, directly or indirectly, a holder of
39 a wholesaler's license to fulfill all or part of those contractual
40 obligations entered into pursuant to subdivision (a) or (b) shall be

1 guilty of a misdemeanor and shall be punished by imprisonment
2 in the county jail not exceeding six months, or by a fine in an
3 amount equal to the entire value of the advertising space, time, or
4 costs involved in the contract, whichever is greater, plus ten
5 thousand dollars (\$10,000), or by both imprisonment and fine. The
6 person shall also be subject to license revocation pursuant to
7 Section 24200.

8 (d) Any on-sale retail licensee, as described in subdivision (a),
9 who, directly or indirectly, solicits or coerces a holder of a
10 wholesaler's license to solicit a beer manufacturer, a holder of a
11 winegrower's license, a distilled spirits rectifier, a distilled spirits
12 manufacturer, or a distilled spirits manufacturer's agent to purchase
13 advertising space or time pursuant to subdivision (a) or (b) shall
14 be guilty of a misdemeanor and shall be punished by imprisonment
15 in the county jail not exceeding six months, or by a fine in an
16 amount equal to the entire value of the advertising space or time
17 involved in the contract, whichever is greater, plus ten thousand
18 dollars (\$10,000), or by both imprisonment and fine. The person
19 shall also be subject to license revocation pursuant to Section
20 24200.

21 (e) For the purposes of this section, "beer manufacturer" includes
22 any holder of a beer manufacturer's license, any holder of an
23 out-of-state beer manufacturer's certificate, or any holder of a beer
24 and wine importer's general license.

25 *SEC. 1.5. Section 25503.6 of the Business and Professions*
26 *Code is amended to read:*

27 25503.6. (a) Notwithstanding any other provision of this
28 chapter, a beer manufacturer, the holder of a winegrower's license,
29 a distilled spirits rectifier, a distilled spirits manufacturer, or
30 distilled spirits manufacturer's agent may purchase advertising
31 space and time from, or on behalf of, an on-sale retail licensee
32 subject to all of the following conditions:

33 (1) The on-sale licensee is the owner, manager, agent of the
34 owner, assignee of the owner's advertising rights, or the major
35 tenant of the owner of any of the following:

36 (A) An outdoor stadium or a fully enclosed arena with a fixed
37 seating capacity in excess of 10,000 seats located in Sacramento
38 County or Alameda County.

1 (B) A fully enclosed arena with a fixed seating capacity in
2 excess of 18,000 seats located in Orange County or Los Angeles
3 County.

4 (C) An outdoor stadium or fully enclosed arena with a fixed
5 seating capacity in excess of 8,500 seats located in Kern County.

6 (D) An exposition park of not less than 50 acres that includes
7 an outdoor stadium with a fixed seating capacity in excess of 8,000
8 seats and a fully enclosed arena with an attendance capacity in
9 excess of 4,500 people, located in San Bernardino County.

10 (E) An outdoor stadium with a fixed seating capacity in excess
11 of 10,000 seats located in Yolo County.

12 (F) An outdoor stadium and a fully enclosed arena with fixed
13 seating capacities in excess of 10,000 seats located in Fresno
14 County.

15 (G) An athletic and entertainment complex of not less than 50
16 acres that includes within its boundaries an outdoor stadium with
17 a fixed seating capacity of at least 8,000 seats and a second outdoor
18 stadium with a fixed seating capacity of at least 3,500 seats located
19 ~~within~~ in Riverside County.

20 (H) An outdoor stadium with a fixed seating capacity in excess
21 of 1,500 seats located in Tulare County.

22 (I) A motorsports entertainment complex of not less than 50
23 acres that includes within its boundaries an outdoor speedway with
24 a fixed seating capacity of at least 50,000 seats, located ~~within~~ in
25 San Bernardino County.

26 (J) An exposition park, owned or operated by a bona fide
27 nonprofit organization, of not less than 400 acres with facilities
28 including a grandstand with a seating capacity of at least 8,000
29 people, at least one exhibition hall greater than 100,000 square
30 feet, and at least four exhibition halls, each greater than 30,000
31 square feet, located in the City of Pomona or the City of La Verne
32 in Los Angeles County.

33 (K) An outdoor soccer stadium with a fixed seating capacity of
34 at least 25,000 seats, an outdoor tennis stadium with a fixed
35 capacity of at least 7,000 seats, an outdoor track and field facility
36 with a fixed seating capacity of at least 7,000 seats, and an indoor
37 velodrome with a fixed seating capacity of at least 2,000 seats, all
38 located within a sports and athletic complex built before January
39 1, 2005, ~~within~~ in the City of Carson in Los Angeles County.

1 (L) An outdoor professional sports facility with a fixed seating
2 capacity of at least 4,200 seats located ~~within~~ in San Joaquin
3 County.

4 (M) A fully enclosed arena with a fixed seating capacity in
5 excess of 13,000 seats in the City of Inglewood.

6 (N) (i) An outdoor stadium with a fixed seating capacity of at
7 least 68,000 seats located in the City of Santa Clara.

8 (ii) A beer manufacturer, the holder of a winegrower's license,
9 a distilled spirits rectifier, a distilled spirits manufacturer, or
10 distilled spirits manufacturer's agent may purchase advertising
11 space and time from, or on behalf of, a major tenant of an outdoor
12 stadium described in clause (i), provided the major tenant does not
13 hold a retail license, and the advertising may include the placement
14 of advertising in an on-sale licensed premises operated at the
15 outdoor stadium.

16 (O) *A complex of not more than 50 acres located on the campus*
17 *of, and owned by, Sonoma State University dedicated to presenting*
18 *live artistic, musical, sports, food, beverage, culinary, lifestyle, or*
19 *other cultural and entertainment events and performances with*
20 *venues that include a concert hall with a seating capacity of*
21 *approximately 1,500 seats, a second concert hall with a seating*
22 *capacity of up to 300 seats, an outdoor area with a seating capacity*
23 *of up to 5,000 seats, and a further outdoor area with a seating*
24 *capacity of up to 10,000 seats. With respect to this complex,*
25 *advertising space and time may also be purchased from or on*
26 *behalf of the owner of the complex, a long-term tenant or licensee*
27 *of the venue, whether or not the owner, long-term tenant, or*
28 *licensee holds an on-sale license.*

29 (P) *A fairgrounds with a horse racetrack and equestrian and*
30 *sports facilities located in San Diego County.*

31 (2) The outdoor stadium or fully enclosed arena described in
32 paragraph (1) is not owned by a community college district.

33 (3) The advertising space or time is purchased only in connection
34 with the events to be held on the premises of the exposition park,
35 stadium, or arena owned by the on-sale licensee. With respect to
36 an exposition park as described in subparagraph (J) of paragraph
37 (1) that includes at least one hotel, the advertising space or time
38 shall not be displayed on or in any hotel located in the exposition
39 park, or purchased in connection with the operation of any hotel
40 located in the exposition park. *With respect to the complex*

1 *described in subparagraph (O) of paragraph (1), the advertising*
2 *space or time shall be purchased only in connection with live*
3 *artistic, musical, sports, food, beverage, culinary, lifestyle, or other*
4 *cultural and entertainment events and performances to be held on*
5 *the premises of the complex.*

6 (4) The on-sale licensee serves other brands of beer distributed
7 by a competing beer wholesaler in addition to the brand
8 manufactured or marketed by the beer manufacturer, other brands
9 of wine distributed by a competing wine wholesaler in addition to
10 the brand produced by the winegrower, and other brands of distilled
11 spirits distributed by a competing distilled spirits wholesaler in
12 addition to the brand manufactured or marketed by the distilled
13 spirits rectifier, the distilled spirits ~~manufacturer~~ *manufacturer*, or
14 the distilled spirits manufacturer's agent that purchased the
15 advertising space or time.

16 (b) Any purchase of advertising space or time pursuant to
17 subdivision (a) shall be conducted pursuant to a written contract
18 entered into by the beer manufacturer, the holder of the
19 winegrower's license, the distilled spirits rectifier, the distilled
20 spirits manufacturer, or the distilled spirits manufacturer's agent
21 ~~and the on-sale licensee, or with respect to clause (ii) of~~
22 ~~subparagraph (N) of paragraph (1) of subdivision (a), the major~~
23 ~~tenant of the outdoor stadium.~~ *any of the following:*

24 (1) *The on-sale licensee.*

25 (2) *With respect to clause (ii) of subparagraph (N) of paragraph*
26 *(1) of subdivision (a), the major tenant of the outdoor stadium.*

27 (3) *With respect to subparagraph (O) of paragraph (1) of*
28 *subdivision (a), the owner, a long-term tenant of the complex, or*
29 *licensee of the complex, whether or not the owner, long-term*
30 *tenant, or licensee holds an on-sale license.*

31 (c) Any beer manufacturer or holder of a winegrower's license,
32 any distilled spirits rectifier, any distilled spirits manufacturer, or
33 any distilled spirits manufacturer's agent who, through coercion
34 or other illegal means, induces, directly or indirectly, a holder of
35 a wholesaler's license to fulfill all or part of those contractual
36 obligations entered into pursuant to subdivision (a) or (b) shall be
37 guilty of a misdemeanor and shall be punished by imprisonment
38 in the county jail not exceeding six months, or by a fine in an
39 amount equal to the entire value of the advertising space, time, or
40 costs involved in the contract, whichever is greater, plus ten

1 thousand dollars (\$10,000), or by both imprisonment and fine. The
2 person shall also be subject to license revocation pursuant to
3 Section 24200.

4 (d) Any on-sale retail licensee, as described in subdivision (a),
5 who, directly or indirectly, solicits or coerces a holder of a
6 wholesaler's license to solicit a beer manufacturer, a holder of a
7 winegrower's license, a distilled spirits rectifier, a distilled spirits
8 manufacturer, or a distilled spirits manufacturer's agent to purchase
9 advertising space or time pursuant to subdivision (a) or (b) shall
10 be guilty of a misdemeanor and shall be punished by imprisonment
11 in the county jail not exceeding six months, or by a fine in an
12 amount equal to the entire value of the advertising space or time
13 involved in the contract, whichever is greater, plus ten thousand
14 dollars (\$10,000), or by both imprisonment and fine. The person
15 shall also be subject to license revocation pursuant to Section
16 24200.

17 (e) For the purposes of this section, "beer manufacturer" includes
18 any holder of a beer manufacturer's license, any holder of an
19 out-of-state beer manufacturer's certificate, or any holder of a beer
20 and wine importer's general license.

21 (f) *The Legislature finds that it is necessary and proper to*
22 *require a separation among manufacturing interests, wholesale*
23 *interests, and retail interests in the production and distribution of*
24 *alcoholic beverages in order to prevent suppliers from dominating*
25 *local markets through vertical integration and to prevent excessive*
26 *sales of alcoholic beverages produced by overly aggressive*
27 *marketing techniques. The Legislature further finds that the*
28 *exceptions established by this section to the general prohibition*
29 *against tied interests shall be limited to their express terms so as*
30 *not to undermine the general prohibition and intends that this*
31 *section be construed accordingly.*

32 SEC. 2. The Legislature finds and declares that a special law
33 is necessary and that a general law cannot be made applicable
34 within the meaning of Section 16 of Article IV of the California
35 Constitution because of the unique conditions located in the County
36 of San Diego.

37 SEC. 3. *Section 1.5 of this bill incorporates amendments to*
38 *Section 25503.6 of the Business and Professions Code proposed*
39 *by this bill and Senate Bill 462. It shall only become operative if*
40 *(1) both bills are enacted and become effective on or before*

1 *January 1, 2016, (2) each bill amends Section 25503.6 of the*
2 *Business and Professions Code, and (3) this bill is enacted after*
3 *Senate Bill 462, in which case Section 25503.6 of the Business and*
4 *Professions Code, as amended by Senate Bill 462, shall remain*
5 *operative only until the operative date of this bill, at which time*
6 *Section 1.5 of this bill shall become operative, and Section 1 of*
7 *this bill shall not become operative.*

8 ~~SEC. 3.~~

9 *SEC. 4.* No reimbursement is required by this act pursuant to
10 Section 6 of Article XIII B of the California Constitution because
11 the only costs that may be incurred by a local agency or school
12 district will be incurred because this act creates a new crime or
13 infraction, eliminates a crime or infraction, or changes the penalty
14 for a crime or infraction, within the meaning of Section 17556 of
15 the Government Code, or changes the definition of a crime within
16 the meaning of Section 6 of Article XIII B of the California
17 Constitution.